

REMARKS

1. Status of the Claims

Claims 1-13 are pending in this Application. Claims 10, 12 and 13 have been canceled. By this Response, Applicant amended Claims 4 and 7. Applicant respectfully submits no new matter was added and that the amendments are fully supported by the application as originally filed. Accordingly, Claims 1-9 and 11 are at issue.

Applicant respectfully submits that the above amendments to the claims also overcome the objections of claims 4-6 under 37 CFR 1.75(c), and under 35 U.S.C. 112, second paragraph, and claims 7-9 and 11 under 35 U.S.C. 101.

2. Rejection of Claims under 35 U.S.C. 103(a)

Claims 1-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. US2003/0040934 to Skidmore et al. in view of an article by NAHB Research Center, "Mold in Residential Buildings," Toolbase Technotes, July 24, 2001. Claims 10, 12 and 13 are canceled. Applicant respectfully submits that combination of the cited references is improper, but even if proper, Applicant's invention is patentable over the combination of references.

The present invention is directed to a method and system for assessing a building's propensity to foster mold growth. The method includes an inspection form and a calculator for determining a mold risk score from certain graded variables recorded on the form. The method also includes providing an action item list to reduce the mold risk score. The system of the present invention includes a base module operably connected to a remote module. The inspection form is accessible and can be transmitted between the base and remote modules. A calculator operably connected to the remote modules utilizes the complete inspection form for calculate mold risk score, which can be accessed from the system.

Skidmore et al. describes an automated generation of a home inspection report according to information gathered by a home inspector during the inspection of a home. Specifically, Skidmore et al. describes a system that creates a home warranty inspection policy customized for that particular home (Paragraph 7). Skidmore et al. utilizes a computer readable medium for receiving inspection information and creates a warranty based on the inspection information. Skidmore et al., however, does not disclose a system or method for determining a building's propensity for mold growth, nor does Skidmore et al. disclose a method for calculating a mold risk score or suggested solutions for reducing the mold risk score. As noted in the office action, Skidmore et al. does not disclose the calculator for determining a mold risk score.

The second cited references, the NAHB article, is a general discussion concerning mold in residential buildings. The NAHB article specifically states “[t]his document is not intended to be exhaustive and all-inclusive, but *merely a primer* on some issues and practices that homeowners and builders may consider about mold within residential buildings.” (Page 1, second paragraph under “Caution and Perspective”) (Emphasis added). This statement runs contrary to the assertion in the office action that the NAHB article discloses assessing building propensity to mold growth by determining a mold risk score. The NAHB article does not provide any form of assessment for calculating a mold risk score; in fact, the NAHB article specifically states “[a]nother issue is that there are few available standards for judging what is an acceptable concentration of mold.” (Page 5, paragraph 2). Merely taking an outdoor air sample and an indoor air sample, and determining the difference in mold spore count as apparently mentioned in the NAHB article does not lead to Applicant's invention of determining a mold propensity factor for a particular building. Therefore, Applicant respectfully submits that the NAHB article **does not** provide for a method of determining a mold risk score.

Initially, combination of the references is improper as there is no motivation in the references to combine them. *See In re Napier*, 55 F.3d 610, 613, 34 U.S.P.Q.2d 1782, 1785 (Fed. Cir. 1995). There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination of references feasible. That knowledge cannot come from the Applicants' invention itself. *See In re Oetiker*, 977 F.2d 1443, 1447 (Fed. Cir. 1992) (citing *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 678-79 (Fed Cir. 1988)); *In re Geiger*, 815 F.2d 686, 687 (Fed. Cir. 1987); *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1147 (Fed. Cir. 1985). "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (citing *In re Gormyan*, 933 F.2d 900, 902 (Fed. Cir. 1984)).

Certainly, this rationale is applicable in the present case. Skidmore et al. teaches a computerized home inspection system and method, which includes collecting information from a physical home inspection leading to the creation of a customized home warranty insurance policy. The NAHB article is a primer on mold in residential buildings, and is meant to provide "an overview of some of the mold issues and to alleviate undue concern about mold in indoor environments." The NAHB article, however, does not teach a system or method for determining a building's propensity for developing a mold issue. Contrary to the assertion made in the office action that the NAHB article discloses assessing a building's propensity to mold growth by determining a mold risk score, a close reading of the NAHB article reveals that it does not provide a teaching to determine a mold risk score. Therefore, it does not follow to combine the NAHB article, which is merely a primer on mold in residential buildings, with the computerized home inspection/warranty system of Skidmore et al. to arrive at Applicant's invention.

Even if the combination was proper, Applicant's invention is patentable over the combination. The present invention is directed to a method and system for assessing a building's propensity to foster mold growth. The method includes an inspection form and a calculator for determining a mold risk score from certain graded variables recorded on the form. Skidmore et al. is directed to a computerized home inspection system and method, which includes collecting information from a physical home inspection leading to the creation of a customized home warranty insurance policy. However, Skidmore et al. does not provide a calculator for determining a mold risk score. The NAHB article is a primer to mold in residential buildings. However, the article likewise does not disclose a system or method for assessing and determining a building's propensity for developing mold. Clearly, neither reference, alone or in combination, teach Applicant's invention. Therefore, Applicant submits claims 1-9 and 11-13 are patentable over these references.

CONCLUSION

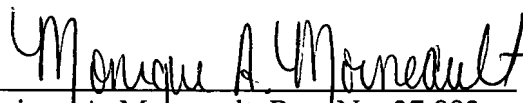
In light of the foregoing reasons, Applicant respectfully requests reconsideration and allowance of claims 1-9 and 11. The Commissioner is authorized to charge any additional fees or credit any overpayments associated with this Amendment to Deposit Account 13-0206.

Applicant invites the Examiner to contact the undersigned representative at the telephone number below to discuss any matters pertaining to the present Application.

Respectfully submitted,

Date: May 11, 2007

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on May 11, 2007.


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